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January 23, 2020

BY ECF

Hon. Paul A. Crotty
United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: *United States v. Schulte*, S2 17 Cr. 548 (PAC)

Dear Judge Crotty:

The government's 18-page letter of January 21, 2020 (Dkt. 257), identifies certain portions of Mr. Schulte's MCC notebooks and other prison documents that the government seeks to admit at trial. While we have not had sufficient time to prepare a comprehensive response to the government's letter, we write to flag an objection in advance of tomorrow's final pretrial conference, and to request an opportunity to file a more fulsome response before the Court rules.

As we previously argued (*see* Dkt. 242, at 23–24), at least certain portions of the MCC materials are protected by the attorney-client or work-product privileges. For example, on page 9 of its letter, the government identifies a page that begins with the statement “What We Expect to Find in Emails” (01416). As the surrounding pages make clear (but which the prosecutors may not have seen because those pages were previously redacted by the government's “wall” team as privileged) the identified page was part of a larger pro se motion that Mr. Schulte was drafting in prison, styled as a “motion to dismiss for vindictive prosecution.” Accordingly, as privileged work product, the identified page is protected from disclosure and is not admissible.

As this example demonstrates, the government's lengthy letter requires a detailed document-by-document response. We therefore ask the Court to allow us until January

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28, 2020, to file that response, and to defer ruling on these evidentiary questions until we have filed our response.

Respectfully submitted,

/s/

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Counsel for Joshua A. Schulte